

**REMARKS**

Claims 1-19 remain pending in this application, each of which was rejected in the Office Action. More particularly, the Office:

rejected claims 1-5 and 7-19 under 35 U.S.C. 102(b) as being anticipated by U.S. Letters Patent 6,393,386 ("*Zager et al.*"); and

rejected claim 6 under 35 U.S.C. 103(a) as being unpatentable over *Zager et al.*, in view of U.S. Letters Patent 6,892,317 ("*Sampath et al.*").

Applicant traverses each of these rejections. The Office Action also indicated that the drawings have been accepted.

**I. REMARKS REGARDING CLAIM AMENDMENTS**

Applicant notes that a number of claims have been amended from "computing device" to "computing system". This amendment is not made for purposes of patentability and does not narrow the scope of the claims. The amendments more closely conform the body of the claims to the preambles or otherwise promote the internal consistency thereof.

The independent claims 1, 10, and 15 have been amended in other respects, as well. Applicant does not acquiesce in the rejections set forth in the Office Action at this time. However, Applicant has chosen to amend the claims in an effort to promote the prosecution of this application more quickly.

**II. THE CITED ART FAILS TO TEACH ALL THE LIMITATIONS OF THE CLAIMS**

Each of the independent claims 1, 10, and 15 has been amended so that the autonomous adaptation of the monitoring scheme occurs "responsive to the likelihood of the correspondence

of the detected pattern to a known pathology pattern.” In the illustrated embodiment, this results from the operation of AI tool 551, shown in Figure 5 and in Figure 6, as is described in the specification as filed at p. 32, line 18 to p. 37, line 12. Thus, no new matter is added since the limitation is fully supported by the application as filed.

Note that the limitation permits pattern detection even in the absence of pattern matching. That is, the present invention in this particular embodiment can react to a behavioral pathology, or the development of a behavioral pathology, even though it does not match the signature pattern that the system is referencing. This limitation furthermore permits a graduated response, since the autonomous adaptation is responsive to the likelihood.’

As an example, consider a scenario in which a particular behavioral pathology is marked by the occurrence of a certain event occurring and a specified rate. If the observed rate (*i.e.*, the “detected pattern”) is half the specified rate, the monitoring scheme might be autonomously adapted to a first monitoring level. If the observed rate is 90% of the specified rate, and therefore concomitantly more likely to be the developing behavioral pathology, then a second monitoring level might be adapted. And, if the event occurs at the specified rate, then the likelihood might be certain such that corrective action is taken.

Applicant respectfully submits that the cited art does not teach such a limitation. The Office cites several passages in Zager *et al.* for teaching “autonomous adaptation.” One passage, found at col. 20, line 56 – col. 21, lines 1-9, merely describe the abstraction of the “dynamic agents” by which Zager *et al.* monitors system performance. A second passage reads as follows:

The dynamic agents run according to a thread-based active object model, comprising at least one independent thread constantly running in an endless main loop. External system events interrupt the main loop; message-appropriate callbacks run on interrupt. New control information thus interrupts dynamic agents and alters their states on the fly.

(col. 32, lines 58-53) And a third passage reads:

Because the configuration handler accepts external interrupts with control data, its presence allows dynamic reconfiguration of the number, type and assignment of dynamic agent in any given Agent Manager.

(col. 19, lines 51-55) Even if one accepts the Office's construction, which Applicant disputes,<sup>1</sup> that these passages teach autonomous adaptation responsive to a detected pattern, they fail to teach doing so "responsive to the likelihood of the correspondence of the detected pattern to a known pathology pattern."

As was mentioned above, this functionality is implemented in the AI tool 551, shown in Figure 5 and in Figure 6, as is described in the specification as filed at p. 32, line 18 to p. 37, line 12. The Office notes in rejecting claim 6 that Sampath *et al.* teaches, at col. 6, lines 17-38 that a variety of techniques may be used for analysis, and lists a "fuzzy logic based analysis." However, Applicant notes that this is but one entry in a laundry list and still does not teach autonomously adapting the monitoring scheme "responsive to the likelihood of the correspondence of the detected pattern to a known pathology pattern."

Regardless of whether the grounds for rejection is novelty under 35 U.S.C. § 102 or obviousness under 35 U.S.C. § 103, the art of record must permissibly teach or suggest all the limitations of the claims. M.P.E.P. § 2131 (novelty); *In re Bond*, 15 U.S.P.Q.2d (BNA) 1566, 1567 (Fed. Cir. 1990) (novelty); M.P.E.P. § 706.02(j) (obviousness); *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974) (obviousness). Again, Applicant respectfully submits that Zager *et al.* and Sampath *et al.*, alone or in combination, and even under the Office's construction, fail to teach or suggest autonomously adapting the monitoring scheme "responsive to the likelihood

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<sup>1</sup> The cited passages merely establish that Zager *et al.* teaches a dynamic allocation of assignments for "dynamic agents". They fail to teach that such dynamic allocation is responsive to the detection of a pattern because Zager *et*

of the correspondence of the detected pattern to a known pathology pattern." This limitation is recited in each of the independent claims 1, 10, and 15. Applicant therefore requests that the rejections be withdrawn.

### III. INTERVIEW SUMMARY

The undersigned discussed the current case by telephone with the Examiner on September 20, 2005. There were no other participants. There was no exhibit. Each of the independent claims 1, 10, and 15, as well as dependent claim 6, were discussed as amended above relative to Zager *et al.* and Sampath *et al.*. There was no agreement regarding the disposition of the claims.

### IV. CONCLUSION

Reconsideration of the present application is respectfully requested for the reasons set forth above.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is invited to contact the undersigned attorney at (713) 934-4064 with any questions, comments or suggestions relating to the referenced patent application.

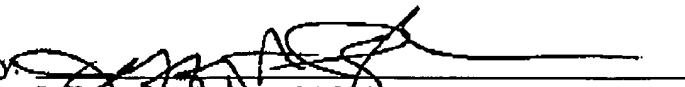
Respectfully submitted,

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22 Sept 2005

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*al.* fails to teach how the interrupts are generated. Thus, Applicant reserves the right to pursue broader claims in a later application.

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